

Notice of Allowability

Application No.

10/786,178

Examiner

Frederick F. Rosenberger

Applicant(s)

NESNIDAL ET AL.

Art Unit

2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 9 January 2006.
2. ☒ The allowed claim(s) is/are 1-36,40,42 and 43.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Applicant's reply, filed 9 January 2006, has been received and entered.

Accordingly, claim 12 has been amended. Claims 37-39 and 41 have been cancelled.

No new claims have been added. Thus, claims 1-36, 40, 42, and 43 are currently pending in this application.

2. Applicant's amendment of claim 12 has successfully overcome the objection of claim 12, as detailed in paragraph 4 of the previous Office action.

3. Applicant's cancellation of claim 37 has successfully overcome the objection to claims 30 and 37, as detailed in paragraph 5 of the previous Office action. It is noted however that claims 42 and 43 now depend on cancelled claim 37. To correct this discrepancy, claims 42 and 43 have been amended by examiner's amendment to change their dependency from cancelled claim 37 to claim 30.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Art Unit: 2884

5. Authorization for this examiner's amendment was given in a telephone interview with Callie M. Bell on 21 February 2006.

6. The application has been amended as follows:

Claim 42 (Currently Amended). The method of Claim ~~[[37]]~~ 30 further including receiving the beam passed through the sample by a microscope condenser and directing a transmitted beam from the condenser on a beam path on which the beam is focused back onto and through the aperture, and directing the beam passed through the aperture to a detector and redirecting the transmitted beam from the condenser so that the transmitted beam bypasses the aperture element and directing the transmitted beam to the detector.

Claim 43 (Currently Amended). The method of Claim ~~[[37]]~~ 30 wherein the detector comprises an array detector and further including focusing the reflected beam that bypasses the aperture element to form an image of the sample on the array detector.

Allowable Subject Matter

7. Claims 1-36, 40, 42, and 43 are allowed.

Art Unit: 2884

8. The following is an examiner's statement of reasons for allowance: The reasons for allowance of the present claims have been indicated in the Office action mailed 22 November 2005.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick F. Rosenberger whose telephone number is 571-272-6107. The examiner can normally be reached on Monday-Friday 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2884

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frederick F. Rosenberger
Patent Examiner
GAU 2884



DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800